

**BEFORE THE MINNESOTA
BOARD OF DENTISTRY**

In the Matter of
Rodney Anderson, D.D.S.
License No. D8587

**STIPULATION AND ORDER FOR
CONDITIONAL LICENSE**

The Minnesota Board of Dentistry ("Board") is authorized pursuant to Minn. Stat. ch. 150A, § 214.10, and § 214.103 to license and regulate dentists, to refer complaints against dentists to the Attorney General for investigation, and to take disciplinary action when appropriate.

The Board received a complaint(s) against Rodney Anderson, D.D.S. ("Licensee"). The Board's Complaint Committee ("Committee") reviewed the complaint(s) and referred the matter to the Attorney General for investigation. Following the investigation, the Committee held a conference with Licensee on May 21, 2004. The Committee and Licensee have agreed that the matter may now be resolved by this stipulation and order.

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between Licensee and the Committee as follows:

A. Jurisdiction. Licensee holds a license to practice dentistry in the State of Minnesota from the Board and is subject to the jurisdiction of the Board with respect to the matters referred to in this stipulation. Licensee states that he does not hold a license to practice dentistry in any other jurisdiction and does not hold any other professional or occupational licenses.

B. Facts. This stipulation is based upon the following facts:

Unprofessional Conduct and/or Inability to Practice with Reasonable Skill and Safety

1. Licensee has engaged in personal conduct which brings discredit to the profession of dentistry and may be unable to practice dentistry with reasonable skill and safety due to a physical, mental, emotional, or other disability.

a. On November 8 and 17, 2003, Licensee was arrested for driving under the influence of alcohol ("DUI").

b. On November 26, 2003, Licensee admitted himself for inpatient treatment at Hazelden Mental Health Center ("Hazelden") in Center City, Minnesota and was discharged on December 24, 2003. Following treatment, it was recommended that Licensee abstain from all mood-altering chemicals, attend aftercare, attend three to five AA meetings per week, and continue psychiatric monitoring of medication.

c. On November 25, 2003, the Health Professionals Services Program ("HPSP") sent a letter to Licensee regarding a third party report. He contacted HPSP on December 4, 2003. During HPSP's intake assessment, Licensee reported that he went to inpatient treatment for the first time for alcohol dependence at Unity Hospital at the end of 1998, then attended daily outpatient treatment for eleven days. He completed the program and remained sober for five months. In May 2003, Licensee attended outpatient treatment at Fairview Riverside for four weeks, but withdrew from the program because he did not like the setting or group.

d. On December 16, 2003, Licensee signed a Participation Agreement with HPSP for monitoring his substance disorder. Terms of Licensee's Monitoring Plan included a "no practice" restriction until authorized or amended by HPSP.

e. On December 30, 2003, HPSP contacted Licensee to inform him that the “no practice” restriction had been lifted allowing him to return to work. Licensee began providing dental treatment to patients on January 5, 2004.

f. On January 30, 2004, HPSP included an Addendum to Licensee’s Monitoring Plan that prohibited him from practicing dentistry until he received written permission from HPSP.

g. On February 3, 2004, HPSP notified the Committee that Licensee’s January 30, 2004 toxicology screen was positive for ethanol, but would keep him in the program due to his refraining from practice and obtaining a re-assessment for chemical dependency.

h. On February 24, 2004, HPSP notified the Committee that Licensee had missed four toxicology screens: February 4, 10, 19 and 20, 2004. HPSP proposed to continue monitoring Licensee if he followed all the conditions of his Monitoring Plan and had no more missed screens; otherwise, he would be discharged from the program.

i. On March 2, 2004, HPSP received Licensee’s chemical dependency re-assessment dated February 27, 2004, from a physician at Hazelden. During the assessment, Licensee explained that he failed to attend all the recommended aftercare and AA meetings following treatment at Hazelden due to the loss of his driver’s license and he neglected to get a sponsor. Moreover, Licensee admitted to the physician that he was drinking in the office while working on patients. Licensee believes his relapse was caused by returning to work too early and other work stressors. The physician recommended that Licensee return to inpatient treatment for further evaluation and care.

j. On or about March 19, 2004, HPSP notified the Committee that Licensee entered inpatient treatment at Hazelden on March 15, 2004, for further evaluation and treatment.

k. On April 12, 2004, Licensee was arrested for a third DUI.

C. Violations. Licensee admits that the facts and conduct specified above constitute violations of Minn. Stat. §§150A.08, subd. 1(6) (unprofessional conduct) and 150A.08, subd. 1(8) (physical, mental, emotional or other disability which adversely affects ability to perform as a dentist), and are sufficient grounds for the disciplinary action specified below.

D. Disciplinary Action. Licensee and the Committee recommend that the Board issue an order as follows:

SUSPENSION

1. Suspension. Licensee's license to practice dentistry in the State of Minnesota is hereby SUSPENDED for three years or until he successfully completes the Health Professional Services Program whichever is later. Licensee shall not practice dentistry as defined in Minn. Stat. § 150A.05 in the State of Minnesota for six months immediately following the effective date of this Order. Providing Licensee complies with this Order, the remaining suspension period is stayed.

CONDITIONS

During the stayed suspension period, Licensee's license to practice dentistry in the State of Minnesota is subject to the following conditions:

1. Licensee shall abstain from alcohol and all mood-altering chemicals unless they are prescribed and/or approved by a physician or dentist who has first been informed of Licensee's chemical dependency history.

2. Within fourteen (14) days of the issuance of this stipulation and order, Licensee shall re-enroll in HPSP for monitoring of his chemical dependency recovery. Licensee shall provide HPSP with a copy of this stipulation and order at the time of enrollment. Licensee must return the signed Participation Agreement to HPSP within 14 days of receiving it from HPSP. Failure to meet either of these deadlines will be considered a violation of this stipulation and order.

3. Licensee shall be monitored by HPSP for three years or until he successfully completes the Program, whichever is later.

4. Licensee shall comply with all provisions of his HPSP Participation Agreement, including revisions subsequent to this order. Licensee's failure to comply with his HPSP Participation Agreement shall be considered a violation of this stipulation and order.

5. Upon request, Licensee shall sign releases allowing the Board or the Committee to obtain Licensee's medical, mental health or chemical abuse/dependency records from any treating professional, evaluator, or facility.

6. Other Conditions.

a. Licensee shall comply with the laws or rules of the Board of Dentistry. Licensee agrees that failure to comply with the Board's laws or rules shall be a violation of this stipulation and order.

b. Licensee shall fully and promptly cooperate with the Board's reasonable requests concerning compliance with this stipulation and order, including requests for explanations, documents, office inspections, and/or appearances at conferences. Minn. R. 3100.6350 shall be applicable to such requests.

c. If the Board receives a complaint alleging additional misconduct or deems it necessary to evaluate Licensee's compliance with this stipulation and order, the Board's authorized representatives shall have the right to inspect Licensee's dental office(s) during normal office hours without prior notification and to select and temporarily remove original patient records for duplication. Licensee shall fully and timely cooperate with such inspections of Licensee's office and patient records.

d. In the event Licensee should leave Minnesota to reside or practice outside the state, Licensee shall notify the Board in writing of the new location within five days. Periods of residency or practice outside of Minnesota will not apply to the reduction of any period of Licensee's discipline in Minnesota unless Licensee demonstrates that practice in another state conforms completely to this stipulation and order.

E. Removal of Conditions. Licensee may petition to have the conditions removed from Licensee's license at any regularly scheduled Board meeting after Licensee has complied with all the conditions of his Participation Agreement with HPSP provided that Licensee's petition is received by the Board at least 30 days prior to the Board meeting. At the time of Licensee's petition, he shall provide evidence of three years of documented sobriety. Licensee shall have the burden of proof proving that he has complied with his Participation Agreement with HPSP and the conditions of this stipulation and order and that he is qualified to practice without conditions. Licensee's compliance with these conditions shall not create a presumption that the conditions should be removed. Upon consideration of the evidence submitted by Licensee or obtained through Board investigation, the Board may remove, amend, or continue the conditions imposed by this order.

F. Fine for Violation of Order. If information or a report required by this stipulation and order is not submitted to the Board by the due date, or if Licensee otherwise violates this stipulation and order, the Committee may fine Licensee \$100 per late report or other violation. Licensee shall pay the fine and correct the violation within five days after service on Licensee of a demand for payment and correction. If Licensee fails to do so, the Committee may impose additional fines not to exceed \$500 per violation. The total of all fines may not exceed \$5,000. Licensee waives the right to seek review of the imposition of these fines under the Administrative Procedure Act, by writ of certiorari under Minn. Stat. § 480A.06, by application to the Board, or otherwise. Neither the imposition of fines nor correction of the violation will deprive the Board of the right to impose additional discipline based on the violation.

G. Additional Discipline for Violation of Order. If Licensee violates this stipulation and order, Minn. Stat. ch. 150A, or Minn. R. ch. 3100, the Board may impose additional discipline pursuant to the following procedure:

1. The Committee shall schedule a hearing before the Board. At least ten days prior to the hearing, the Committee shall mail Licensee a notice of the violation alleged by the Committee and of the time and place of the hearing. Within seven days after the notice is mailed, Licensee shall submit a response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

2. At the hearing before the Board, the Committee and Licensee may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this stipulation and order. Licensee waives a hearing before an administrative law judge and waives

discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

3. At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Licensee's practice, or suspension or revocation of Licensee's license.

H. Other Procedures for Resolution of Alleged Violations. Violation of this stipulation and order shall be considered a violation of Minn. Stat. § 150A.08, subd. 1(13). The Committee shall have the right to attempt to resolve an alleged violation of the stipulation and order through the procedures of Minn. Stat. § 214.103, subd.6. Nothing herein shall limit (1) the Committee's right to initiate a proceeding against Licensee pursuant to Minn. Stat. ch. 14, or (2) the Committee's and the Board's right to temporarily suspend Licensee pursuant to Minn. Stat. § 150A.08, subd. 8, based on a violation of this stipulation and order or based on conduct of Licensee before or after the date of this stipulation which is not specifically referred to in paragraph B. above.

I. Attendance at Conference. Licensee attended a conference with the Committee on May 21, 2004. The following Committee members attended the conference: Nadene Bunge, D.H., Ronald King, D.D.S., and Freeman Rosenblum, D.D.S. Assistant Attorney General Rosellen Condon represented the Committee at the conference. Although Licensee was informed in the Notice of Conference that he could be represented by legal counsel, Licensee has voluntarily and knowingly waived legal representation.

J. Waiver of Licensee's Rights. For the purpose of this stipulation, Licensee waives all procedures and proceedings before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right

to dispute the facts contained in this stipulation and order and to dispute the adequateness of discipline in a contested proceeding pursuant to Minn. Stat. ch. 14. Licensee agrees that upon the application of the Committee without notice to or an appearance by Licensee, the Board may issue an order imposing the discipline specified herein. The Committee may participate in Board deliberations and voting concerning the stipulation. Licensee waives the right to any judicial review of the order by appeal, writ of certiorari, or otherwise.

K. Board Rejection of Stipulation and Order. In the event the Board in its discretion does not approve this stipulation or a lesser remedy than specified herein, this stipulation and order shall be null and void and shall not be used for any purpose by either party hereto. If this stipulation is not approved and a contested case proceeding is initiated pursuant to Minn. Stat. ch. 14 and section 150A.08, Licensee agrees not to object to the Board's initiation of the proceeding and hearing the case on the basis that the Board has become disqualified due to its review and consideration of this stipulation and the record.

L. Record. This stipulation, related investigative reports and other documents shall constitute the entire record of the proceedings herein upon which the order is based. The investigative reports, other documents, or summaries thereof may be filed with the Board with this stipulation. Any reports or other material related to this matter which are received after the date the Board approves the stipulation and order shall become a part of the record and may be considered by the Board in future aspects of this proceeding.

M. Data Classification. Under the Minnesota Data Practices Act, this stipulation and order is classified as public data. Minn. Stat. § 13.41, subd. 4. All documents in the record shall maintain the data classification to which they are entitled under the Minnesota Government Data Practices Act, Minn. Stat. ch. 13. They shall not, to the extent they are not already public

documents, become public merely because they are referenced herein. Pursuant to federal rule (45 C.F.R. part 60), the Board must report the disciplinary action contained in this stipulation and order to the National Practitioner Data Bank.

N. Entire Agreement. Licensee has read, understood, and agreed to this stipulation and is freely and voluntarily signing it. This stipulation contains the entire agreement between the parties hereto. Licensee is not relying on any other agreement or representations of any kind, verbal or otherwise.

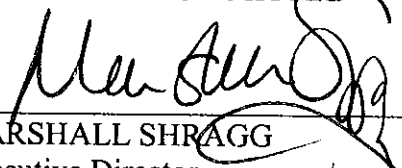
O. Service and Effective Date. If approved by the Board, a copy of this stipulation and order shall be served personally or by first class mail on Licensee. The order shall be effective and deemed issued when it is signed by the President or Vice-President of the Board.

LICENSEE

 By:
RODNEY ANDERSON, D.D.S.

Dated: 7-19, 2004

COMPLAINT COMMITTEE


MARSHALL SHRAGG
Executive Director

Dated: July 27th, 2004

ORDER

Upon consideration of the foregoing stipulation and based upon all the files, records, and proceedings herein,

The terms of the stipulation are approved and adopted; the recommended disciplinary action set forth in the stipulation is hereby issued as an order of this Board:

SUSPENDING Licensee's license to practice dentistry in the State of Minnesota as defined in Minn. Stat. § 150A.05 for three years or until he successfully completes the Health Professional Services Program whichever is later, prohibiting Licensee from practicing dentistry in the State of Minnesota for six months immediately following the effective date of this Order, staying the remaining suspension period as long as Licensee complies with this Order and placing CONDITIONS on Licensee's license effective this 5th day of August, 2004.

MINNESOTA BOARD
OF DENTISTRY

By:


PRESIDENT

Linda Boyum, R.D.A.